

Panaji, 2nd February, 1984 (Magha 13, 1905)

SERIES I No. 44

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Public Health Department

Notification

ILD/HS/1756/64/83-84

The Government of Goa, Daman and Diu is pleased to amend rule 1 of the Rules regarding levy of fees in Government and Government aided Hospitals, notified under Government Notification bearing number ILD/HS/1756/64 dated 14-12-1977 and published in the Official Gazette Series I, No. 8, dated 25-5-1978 (hereinafter called the 'principal Rules') as follows, namely:—

In rule 1 of the principal Rules, for clause (ix), the following clause shall be substituted, namely:—

"(ix) V. I. Ps. such as Lt. Governor, Chief Minister, Judges of the High Court of Judicature at Bombay, Goa Bench at Panaji, Council of Ministers, Speaker, Dy. Speaker, M.Ps., Leader of Opposition, M.L.As, Ex-Ministers, Ex-Speakers, and Ex-Deputy Speakers and their families as well as dignitaries of equivalent ranks of the Central and State Government and their families".

By order and in the name of the Administrator of Goa, Daman and Diu.

S. V. Bhadri, Under Secretary (Health).

Panaji, 16th January, 1984.

Legislative Assembly of Goa, Daman and Diu

(Legislature Department)

LA/E/179/84

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 20th January, 1984 is hereby published for general information in pursuance of the provisions of Rule - 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Municipalities
(Seventh Amendment) Bill, 1984

(Bill No. 1 of 1984)

A BILL

further to amend the Goa, Daman and Diu Municipalities Act, 1968.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-fourth Year of the Republic of India as follows:—

1. Short title and commencement.— (1) This Act may be called the Goa, Daman and Diu Municipalities (Seventh Amendment) Act, 1984.

(2) It shall come into force at once.

2. Amendment of section 42.— For sub-section (1) of section 42 of the Goa, Daman and Diu Municipalities Act, 1968 (7 of 1969) (hereinafter referred to as the "principal Act"), the following sub-section shall be substituted namely:—

"(1) The Councillors elected at a general election, unless earlier removed by Government, shall hold office for a term of five years from the date specified in sub-section (2) and after the expiry of the said term election shall be held within a period of six months".

3. Amendment of section 298.— In section 298 of the principal Act—

(i) in sub-section (1), in clause (e) for the words "three years" the words "one year" shall be substituted,

(ii) in sub-section (2), for the words "three years" wherever it occurs the words "one year" shall be substituted.

4. Amendment of section 300.— In section 300 of the principal Act—

(i) in sub-section (2), for the words "three years" the words "one year" shall be substituted;

(ii) in sub-section (3), for the words "three years" the words "one year" shall be substituted.

Statement of Objects and Reasons

According to section 42 of the principal Act, the term of office of the Councillors can be extended by Government upto six years. Even under the Consti-

tution the term of the House of people, State legislatures and Union territory legislatures has been fixed as five years and it can be extended only when a proclamation of emergency is in operation. Hence, there appears to be no justification in empowering the Government to extend the term of the Councillors. It is, therefore, proposed to amend section 42 of the principal Act in order to restrict the term of office of Councillors to only five years and also to make it specific that after the expiry of the said term elections should be held within a period of six months.

Similarly, the term of office of the Municipal Administrator to be appointed under section 298 is considered to be too long and thus it is proposed to curtail it from the existing three years to one year. Consequential amendment is also proposed in section 300.

Financial Memorandum

The Bill do not entail any additional financial expenditure.

Memorandum on Delegated Legislation

The Bill do not propose delegation of any legislative powers.

Panaji, Dr. WILFRED D'SOUZA
31st December, 1983. M. L. A.

Assembly Hall, M. M. NAIK
Panaji, Secretary to the Legislative
4th January, 1984. Assembly of Goa, Daman
and Diu.

(Annexure to Bill No. 1 of 1984)

The Goa, Daman and Diu Municipalities (Seventh Amendment) Bill, 1984

The Goa, Daman and Diu Municipalities Act, 1969
(Act No. 7 of 1969)

42. Term of office of Councillors. — (1) Save as otherwise provided by this Act, Councillors, elected at a general election, shall hold office for a term of five years, which may be extended by the Government in exceptional circumstances by notification in the Official Gazette, to a term not exceeding in the aggregate six years for reasons which shall be stated in such notification.

(2) The term of Office of such Councillors shall be deemed to commence on the date of the meeting after the general election held to elect the President and the Vice-President under section 52.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the term of office of the outgoing Councillors shall be deemed to extend to and expire with the day immediately preceding the date of such meeting.

(4) A Councillor elected at a bye-election shall hold office so long only as the Councillor in whose place he is elected would have held it if the vacancy had not occurred.

(5) The term of Office of a co-opted Councillor shall commence with effect from the date on which his name is published in the Official Gazette and it shall be co-terminous with the term of the elected Councillors.

(6) The term of Office of a nominated Councillor, if nominated prior to the date on which the meeting referred to in sub-section (2) is held, shall commence from the date of such meeting. If a Councillor is nominated after such meeting is held, his term shall commence from the date on

which his nomination is published in the Official Gazette. His term shall be co-extensive in either case with the term of the elected Councillors.

(7) The term of a Councillor elected at a general election whose result is published in the Official Gazette under sub-section (1) of section 20, after the first publication of the results thereunder, shall commence with effect from the date on which his name is published in the Official Gazette, but shall be co-terminous with the term of the elected Councillors whose results are first published as aforesaid.

298. Power to appoint Municipal Administrator in certain circumstances. — (1) If, in the opinion of the Government, —

(a) a Council is not competent to perform duties imposed upon it by or under this Act or any other law for the time being in force, or

(b) persistently makes default in the performance of such duties, or in complying with the lawful directions and orders issued by the Collector, the Director, the Government or any other authority empowered under any law for the time being in force to issue such directions or orders to a Council, or

(c) exceeds or abused its powers, or

(d) a situation has arisen in which the administration of the Council cannot be carried out in accordance with the provisions of this Act, or

(e) the financial position and the credit of the Council is seriously threatened, the Government may, by an order published in the Official Gazette, appoint a Government officer as the Municipal Administrator of the Council for a period not exceeding three years. The order shall state the reasons for making the order.

(2) If the term of Office of a Municipal Administrator so appointed is less than three years, the Government may extend it from time to time, subject to the limitation of the total period of three years.

300. Review of Municipal Administrator's work by Director and if necessary dissolution of Council. — (1) Every Municipal Administrator appointed under section 298 shall submit to the Director for each quarter a report about his administration in such form and by such date as the Director may prescribe.

(2) In cases where a Municipal Administrator has been appointed for reasons set forth in clause (d) or (e) of sub-section (1) of section 298, the Government, on the report of the Director, shall review the position at the end of every six months or earlier, if deemed necessary, and determine whether the reasons leading to the appointment of the Municipal Administrator have since ceased to exist and pass suitable orders. If the Government comes to the conclusion that it is in the interest of municipal administration to extend the term of office of the Municipal Administrator, the Government may do so from time to time, provided that in no case shall the term be so extended as to exceed three years.

(3) If, in the opinion of the Government, even after the period of three years of administration by the Municipal Administrator the grounds on which the Municipal Administrator was appointed still exist, the Government may by an order published in the Official Gazette dissolve the Council.

(4) In cases where the Municipal Administrator was appointed for reasons set forth in clause (a), (b) or (c) of sub-section (1) of section 298 and if his term of office is to expire after the term of the existing Council is due to expire or expires, the Government shall curtail the term of the Municipal Administrator in such manner as to make his term co-terminous with the existing Council. In other cases, the Municipal Administrator shall hand over the administration to the existing Council for the unexpired portion of its term after his term expires.

(5) Whenever an existing Council takes over administration from a Municipal Administrator in accordance with sub-section (4), the procedure for the election of the President, Vice-President and committees shall be followed as if it were a newly constituted Council after a general election.

Assembly Hall, M. M. NAIK
Panaji, Secretary to the Legislative Assembly
4th January, 1984. of Goa, Daman and Diu.

LA/B/152/84

The following Report of the Select Committee on Bill No. 27 of 1980 - The Goa, Daman and Diu School Education Bill, 1980 is hereby published for general information in pursuance of the provisions of Rule -229 of the Rules of Procedure and Conduct of Business of Business of the Legislative Assembly.

Bill No. 27 of 1980

A
BILL

to provide for better organisation and development of School Education in the Union territory of Goa, Daman and Diu and for matters connected therewith or incidental thereto.

COMPOSITION OF THE SELECT COMMITTEE

CHAIRMAN

1. Shri V. G. Desai — Deputy Speaker.

MEMBERS

2. Shri Francisco Sardinha
(with effect from 1980 to 28th December, 1980)
Shri Pratapsingh Rane, Chief Minister
(with effect from 29th December to 23rd June, 1981)
Shri Harish Zantye
(with effect from 24th June, 1981).
3. Shri R. D. Khalap.
4. Shri Mario Vaz.
5. Shri T. F. Pereira.
6. Shri Gurudas Tari.
7. Shri B. S. Gaonkar.
8. Dr. Wilfred D'Souza
(from 15th October, 1980 to 22nd June, 1981)
Shri Herculano Dourado
(with effect from 7th October, 1981).
9. Shri V. A. Naik
(with effect from 7th October, 1981) By invitation.

Minister
in charge
of the Bill

SECRETARIAT

Shri M. M. Naik — Secretary, Legislature.
Smt. Prabha Chandran — Under Secretary, Legislature.

GOVERNMENT REPRESENTATIVES

Shri U. D. Sharma — Secretary, Law & Judiciary.
Shri B. S. Subbanna — Under Secretary (Drafting).
Shri V. V. Bhat — Secretary (Education).
Kum. L. Khiangate — Director of Education.
Shri S. V. Kurade — Deputy Director of Education.
Shri V. M. Desai — Deputy Director of Education.

Report of the Select Committee

I, the Chairman of the Select Committee to which Bill No. 27 of 1980 (a Bill to provide for better organisation and development of school education in the Union territory of Goa, Daman and Diu and for matters connected therewith or incidental thereto) was referred, having been authorised by the Committee to submit the Report on its behalf, present its Report with the Bill as amended by the Committee annexed hereto.

2. The Bill was introduced in the Legislative Assembly on 15th October, 1980 and the motion for reference of the Bill to the Select Committee was adopted by the House on the same day.

3. The Committee held 25 sittings. In its preliminary meeting held on 28th October, 1980 the Committee decided to invite suggestions from the Hon. Members of the Legislative Assembly. The Committee also decided to invite the views and comments from the various institutions such as Teachers' associations (both the groups — organisation and management), Head Masters' Association, Management Association, Chairman of SSC Board, representatives of unaided Schools such as — Sharada Mandir, Shri G. G. Mayekar, Smt. Sashikala Kakodkar, Shri Raul Fernandes — Ex. Education Ministers, Shri R. S. Kenkre and Shri M. H. Sardesai — Ex. Directors of Education. It was also decided to issue a press note so that the individuals interested in the subject matter of the Bill, may come forward with their views and opinion.

It was also decided that a brochure containing the salient features of the Bill be prepared to form part of the press note for easy reference of persons interested in the Bill. The last date for receipt of suggestions/comments was initially fixed as 20th November, 1980 which was further extended to 15th December, 1980. The Committee received suggestions from Shri A. N. Naik — the present Minister for Industries and from Shri D. G. Mandrekar, MLA and also from the following associations and private individuals:

Associations:

- (1) All Goa Secondary School Teachers Association. (Shri Ravindranath Pai Raiturkar, Margao).
- (2) Shri Ragunath A. Tople, Ex-MLA, Principal, Janata High School.
- (3) President, Gomant Vidya Niketan.
- (4) All Goa Secondary School Teachers Organisation. (Shri Neves Anthony Rebello, President, AGSSTO).
- (5) Archdiocesan Board of Education (Fr. Avinash Rebello, Hon. General Secretary ABE).
- (6) All Goa Students Union, Margao.
- (7) The Goa Headmasters Association. (Raghuvir Vernekar, Hon. Secretary).
- (8) Goa State Acharyakul (Dr. J. B. Sardesai, Gen. Sec. Acharyakul).
- (9) Loyola Jesuit Fathers, Margao (Fr. Franklin de Souza, S. J.).
- (10) Bharatiya Janata Party (Shri L. M. Afonso, Vice-President).
- (11) Assistant Teachers, Vijayanad High School, Mayem.
- (12) Vidyavardhak Mandal.

Private Individuals:

- (1) Shri Gopal Apa Kamat, Advocate — Ex. Speaker.
- (2) Shri Ganesh V. Khandeparker, Advocate.
- (3) Shri Ravindra P. Namshekar, Near English School.
- (4) Father P. H. D'Costa, Fr. Agnel High School.
- (5) F. P. D'Cruz, Kavarana Building.
- (6) Shri Devendra A. Bali, Chartered Accountant.
- (7) Shri R. S. Kenkre, 4, Alankar, Mahim — Ex. Director of Education.
- (8) Shri Shantaram L. Naik, Advocate.

The suggestions received were consolidated clause by clause for easy reference of the Committee. The Committee also heard the representatives of some of the associations in further elucidation of the points contained in their memoranda. Some of the suggestions received are incorporated in the Bill.

4. Since the subject matter of the Bill to be dealt by the Committee is very delicate containing the right of the minority guaranteed under the Constitution, and provides for taking over management of the Schools by the Government, the Committee felt that it is better to make a comparative study of the Education Act enacted in other States, especially because some of the provisions of the similar enactments in other States have been challenged in the courts of law. In its preliminary meeting held on 28th October, 1980 the Committee directed the Legislature Department to collect copies of the Education Act of Orissa, Kerala, Bihar and West Bengal. In order to gain practical knowledge of the implementation of the various provisions of the Bill the Committee conducted study tour to Karnataka, Tamil Nadu, Pondicherry, Kerala, West Bengal, Andhra Pradesh, Maharashtra and Bihar. The Committee also visited Delhi and had discussions with the officers on the implementation of the Education Act since the draft Bill is based on the Education Act of Delhi union territory.

5. The Committee also studied the Judgement of the Supreme Court and various High Courts on the rights of the minority and other provisions contained in the Bill. The Committee also gave due consideration to the recommendations contained in Das Commission's Report.

6. The provisions of the Bill were scrutinized by the Committee clause by clause, and wherever found necessary changes were made and incorporated in the draft Bill annexed to this report. The clauses in the Bill have been rearranged and clause 23 dealing with Affiliation was brought under Chapter III dealing with Establishment, recognition, affiliation, management of an aid to schools and clauses 9 and 22 of School Fund and School Staff Account Fund have been brought under Chapter IV dealing with School Property. A new chapter IX under caption "Appeals and Offences" has been inserted to bring Appeals and Offences provided under various provisions of the Bill under one common chapter. The observation of the Committee, with regard to the important changes proposed in the Bill are enumerated in the succeeding paragraphs.

Original Clause 3 — According to sub-clause (2) of Clause 3 of the Bill as introduced, it is incumbent for the schools functioning in the Union territory at the commencement of the Act and every school opened or established thereafter, to apply for registration and as per sub-clause (3) registration shall be granted only if the school complies with certain conditions prescribed therein. The Committee made a comparative study of the Act prevailing in other States and found that the Education Acts of most of the States are not having such a provision requiring compulsory registration of schools. The Committee also felt that there is a scope for interpretation of sub-clause (7), which puts a ban on taking part in the management of any un-registered school, as an un-constitutional. The Committee therefore decided to delete the entire Chapter II dealing with registration of schools and consequently to substitute the term 'school' for the term 'registered school' wherever it occurs in the Bill. However, since the existing Grant-in-aid Code provides for seeking of permission of the Director of Education before opening a new school, it was considered that a provision on the similar lines can be incorporated, if need be, in the rules to be framed under the Act.

Original Clause 4 — Clause 4 is proposed to be deleted as consequential to Committee's decision to delete clause 3.

Original Clause 5 — The Committee felt that it is not necessary to restrict the maximum scale of pay of the teachers and accordingly the expression 'and the maximum' has been deleted. The term 'may' used in the clause has also been substituted by the term 'shall' in order to make the provision mandatory.

Original Clause 6 — Clause 6 was proposed to be deleted as it is found to be a case of excessive restriction which may not be reasonable.

Original Clause 7 — As pre-primary deals with only montessory and kindergarten, interference of the Government for prescribing the curricula does not appear to be necessary. Clause 7 is, therefore, proposed to be deleted.

Original Clause 9 — In sub-clause (1), the word 'private' has been deleted as under The Goa, Daman and Diu Secondary and Higher Secondary Education Board Act, 1975 even Government schools have to be recognized.

It was felt that there should be some guidelines as regards the adequacy of funds. Accordingly, item (a) of the proviso to sub-clause (1) has been suitably redrafted. Provisions for appeal provided under sub-clause (3) and sub-clause (7) have been incorporated as clause 22(1) (a) and 23(1) (b) respectively.

Original sub-clause (6) has been suitably redrafted in order to make it specific that the existing school which is receiving aid at the commencement of the Act shall be deemed to have been recognised.

Original Clause 10 — As the scheme is to be made in accordance with the rules, the expression "with the previous approval of the appropriate authority" and consequently the second proviso are redundant and proposed to be deleted. Sub-clause (2) which enables variation/modification of the scheme is also proposed to be deleted.

Original Clause 11 — A proviso has been inserted to sub-clause (2) in order to provide a reasonable opportunity of showing cause to the aggrieved party.

Original Clause 12 — Sub-clause (1) has been amended to make it incumbent on the management to maintain the records of the school property and also to make it liable for inspection at the time of regular school inspection. Provision for appeal under sub-clause (4) has been incorporated in clause 23(1) (c).

Original Clause 13 — Sub-clause (3) has been incorporated as clause 22(1) (g) and the power of supervision under the second proviso to sub-clause (4) has been extended to enable the Management to suspend an employee in case any criminal offence involving moral turpitude is under investigation, enquiry or trial.

Original Clause 14 — Item (b) of sub-clause (2) has been modified to ban the employees from propagating anti-national outlook and in item (f) the restriction imposed on giving private tuitions has been removed. Further the terms of code of conduct prohibiting the employees involvement of political activities has been restricted to within the school premises by inserting an expression in item (i) of sub-clause (2).

Original Clause 15 — The term "appropriate authority" has been substituted by the term "Government". Sub-clauses (2) and (3) are proposed to be deleted as the Government pays 100 percent grant for salaries of teachers and as such the question of depositing share by management every month in the school account does not arise.

Original Clause 17 — The word 'Government' has been substituted for the word 'Administrator'.

Original Clause 19 — The words "appropriate authority" has been substituted by the word "Director" and in sub-clause (3) (e) (iii) the expression "or imposition of any other punishment on" has been inserted at the end to provide for settlement of any dispute arising out of any penalty other than dismissal or reduction in rank as a term of contract of service.

Original Clause 22 — Inserted as clause 10 in Chapter.

Original Clause 23 — Inserted as clause 8 in Chapter II.

Original Clause 24 — In sub-clause (2) to make the intention clear for the expression "shall deliver the possession of the school property to the Administrator," the expression "shall deliver possession of the school property to secure proper management to the Administrator" has been substituted, and sub-clause (5) and items (c) and (e) of sub-clause (6) have been suitably redrafted. The period of twenty years prescribed under the proviso to sub-clause (9) for the rightful owner to come forward and take over the management of the school has been reduced to ten years.

Original Clause 25 — The headline of the clause gives the impression that the provision regarding taking over management is inapplicable to minority school, whether aided or unaided. The term "unaided" has accordingly been inserted in the headline

in order to make the provision inapplicable only to unaided minority schools and to bring the aided minority schools within the purview of the provision.

Chapter VIII — A new chapter has been inserted with two clauses in order to bring Appeals and Penalties provided under the Act under one common chapter.

Original Clause 26 — In sub-clause (2) of clause 26, relating to the composition of Advisory Board, in item (e) in place of two representatives of the Universities, the Director has been substituted specifying therein that he shall be the Secretary to the Advisory Board.

In sub-clause (3), instead of the Administrator, the Government has been empowered to nominate the non-official members of the Advisory Board.

Original Clause 31 — Clause 31 dealing with punishments has been incorporated as clause 23 in new Chapter VIII.

Original Clause 33 — The power to remove difficulties has been restricted to a period of two years instead of five years.

Some minor corrections, modifications etc., have also been made from the drafting point.

This Report was considered and adopted by the Committee in its meeting held on 17th December, 1983.

Assembly Hall,

Panaji,

27th December, 1983.

VAIKUNT G. DESAI

Chairman

Note. — Deletions made by the Select Committee are shown in square brackets, and additions and substitutions made are underlined.

The Goa, Daman and Diu School Education Bill, [1980] 1984

(Bill No. 27 of 1980)

A

BILL

to provide for better organisation and development of School Education in the Union Territory of Goa, Daman and Diu and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the thirty [first] fourth Year of the Republic of India as follows: —

CHAPTER I

Preliminary

1. Short title, extent and commencement. — (1) This Act may be called the Goa, Daman and Diu School Education Act, [1980] 1984.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Administrator may, by notification, appoint and different dates may be appointed for different provisions of this Act, and any reference to the commencement of this Act, in relation to any provision thereof shall be construed as a reference to the date on which that provision comes into force.

2. Definitions. — In this Act, unless the context otherwise requires, —

(a) "Administrator" means the Administrator of the Union territory appointed by the President under article 239 of the [(c)] Constitution;

(b) "Advisory Board" means the Board as constituted under section [26] 24 of this Act;

(c) "aid" means any aid granted to a recognised school by the Administrator, or any other authority designated by the Administrator;

(d) "aided school" means a recognised private school which is receiving aid from the Administrator or any other authority designated by the Administrator;

(e) "appropriate authority" means the Administrator or any other officer authorised by him in this behalf;

(f) "Director" means the Director of Education, Government of Goa, Daman and Diu, and includes any other officer authorised by him to perform all or any of the functions of the Director under this Act;

(g) "employee" means a teacher and includes every other employee working in a recognised school;

(h) "existing employee" means an employee of an existing school who is employed in such a school immediately before the commencement of this Act;

(i) "existing school" means a recognised school which is in existence at the commencement of this Act;

(j) "Government" means the Government of Goa, Daman and Diu;

(k) "Head of school" means the principal academic officer, by whatever name called, of a recognised school;

(l) "local authority" means —

(i) in relation to an area within the local limits of a municipal council constituted under the Goa, Daman and Diu Municipalities Act, 1968, the municipal council concerned; Act No. 7 of 1969.

(ii) in relation to an area within the local limits of a village panchayat constituted under the Goa, Daman and Diu Village Panchayat Regulations, 1962, the village panchayat concerned; Act No. 9 of 1962.

(m) "manager" in relation to a school, means the person by whatever name called, who is entrusted,

either on the date on which this Act comes into force or, as the case may be, under a scheme of management made under section [10]6, with the management of the affairs of that school;

(n) "managing committee" means the body of individuals [who are] which is entrusted with the management of any recognised private school;

(o) "minority school" means a school established and administered by a minority having the right to do so under clause (1) of article 30 of the Constitution;

(p) "notification" means a notification published in the Official Gazette;

(q) "prescribed" means prescribed by rules made under this Act;

(r) "private school" means a school which is not run by the Central Government, Administrator, or any other authority designated or sponsored by the Central Government or Administrator;

(s) "public examination" means an examination conducted by the Central Board of Secondary Education, Council for School Certificate Examinations or the Goa, Daman and Diu Board of Secondary and Higher Secondary Education or any other Board recognised by the Administrator or any other officer authorised by him in this behalf;

(t) "recognised school" means a school recognised by the appropriate authority;

(u) "school" includes a pre-primary, primary, middle secondary and higher secondary school, and also includes any other institution which imparts education or training below the degree level, but does not include an institution which imparts technical education;

(v) "school property" means all movable and immovable property belonging to, or in the possession of, the school and all other rights and interests, in, or arising out of, such property, and includes land, building and its appurtenances, playgrounds, hostels, furniture, books, apparatus, maps, equipment, utensils, cash, reserve funds, investments and bank balances;

(w) "teacher" includes the Head of a school;

(x) "Tribunal" means the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965; Act No. 5 of 1965.

(y) "unaided minority school" means a recognised minority school which does not receive any aid;

(z) "Union territory" means the Union territory of Goa, Daman and Diu.

[CHAPTER II]

Registration of Schools

3. Registration of Schools. — (1) There shall be a register of all schools functioning in the Union territory (hereinafter referred to as the "Register of Schools") and the Administrator shall enter, or cause to be entered, therein, the prescribed particulars in relation to each such school.

(2) Every school functioning in the Union territory at the commencement of this Act, and every school opened or established thereafter shall, within a period of three months from such commencement or, as the case may be, from the date of opening or establishment of such school, make an application to the Administrator, in such form and on payment of such fees, not exceeding rupees five, as may be prescribed, for the registration of such school.

(3) No application for the registration of a school shall be granted unless the Administrator, after making such inquiry as he may think fit, is satisfied that —

(a) the premises in which the school is functioning, or is proposed to function, is suitable for the purpose of running a school therein and fulfils the prescribed norms with regard to accommodation, adequacy of the number of teaching staff, qualifications of the teaching staff, sanitary arrangements and the like;

(b) the number of students on the rolls of the school, or proposed to be admitted in the school, justifies the functioning of, or, as the case may be, the establishment of the school;

(c) the fees charged, or proposed to be charged from the students are commensurate with the standards of education imparted, or proposed to be imparted, at the school; and

(d) the affairs of the school are regulated by a managing committee constituted in accordance with the provisions of this Act or the rules made thereunder.

(4) The serial number assigned to a school in the Register of Schools shall be the registration number of that school and shall be communicated to that school by the appropriate authority.

(5) Every letter, order for goods, certificate or other document issued by or on behalf of a school, after the expiry of a period of six months from the commencement of this Act, shall contain a statement to the effect that the school has been registered under this Act and shall also indicate therein the registration number assigned to that school.

(6) The registration of any school may be cancelled if, after an inquiry into the affairs of the school, the Administrator is satisfied that the school has failed to comply with the norms referred to in sub-section (3) or has contravened any provision of this Act or any rule or order made thereunder:

Provided that no such cancellation shall be made except after giving the managing committee of the school a reasonable opportunity of showing cause against the proposed action.

4. Recognition not given to unregistered schools. — No school shall be recognised under this Act unless it has been, or is deemed to have been, registered under this Act.

5. Power of Administrator to specify the scales of pay of teachers of unaided schools. — The Administrator may, by notification, specify the minimum and the maximum scales of pay of the teachers of registered schools whether recognised or not.

6. Excess income how to be spent. — The excess of income over expenditure of each registered school shall be spent for such academic purposes as may be prescribed.

7. Power of Administrator to specify the curricula of pre-primary schools. — The curricula of studies in each pre-primary school, whether recognised or not, shall be such as may be specified by the Administrator.]

CHAPTER [III] II

Establishment, recognition, affiliation, management of, and aid to Schools

3. [5] Power of Administrator to specify the scales of pay of teachers of unaided schools. — The Administrator [may] shall by notification, specify the minimum [and the maximum] scales of pay of the teachers of [registered] schools whether recognised or not.

4. [8] Power of Government to regulate education in schools. — (1) The Government may regulate education in all the schools in the Union territory in accordance with the provisions of this Act and the rules made thereunder.

(2) The Government may establish and maintain any school in the Union territory or may permit any person or local authority to establish and maintain any school in the Union territory, subject to compliance with the provisions of this Act and the rules made thereunder.

(3) On and from the commencement of this Act and subject to the provisions of clause (1) of article 30 of the Constitution, the establishment of a new school or the opening of a class or section of a class or the closing down of an existing class or any section of an existing class in any existing school in the Union territory, shall be subject to the provisions of this Act and the rules made thereunder and any school or class or section established or opened otherwise than in accordance with the provisions of this Act or the rules made thereunder shall not be recognised by the appropriate authority.

5. [9] Recognition of schools. — (1) The appropriate authority may, on an application made to it in the prescribed form and in the prescribed manner, recognise any [private] school;

Provided that no school shall be recognised unless —

[(a) it has adequate funds to ensure its financial stability and regular payment of salary and allowances and other benefits to its employees]

(a) it has such funds to ensure its financial stability which regulate payment of salaries and allowances and other benefits to its employees as prescribed.

(b) it has a scheme of management as required by section [10] 6.

(c) it has suitable or adequate accommodation and sanitary facilities having regard, among other

factors, to the number, age and sex of the pupils attending it;

(d) it provides for approved courses of study and efficient instructions;

(e) it has teachers with prescribed qualification;

(f) it has the prescribed facilities for physical education, library service, laboratory work, workshop practice and co-curricular activities; and

(g) it gives an undertaking that it will follow the provisions of this Act and the rules made thereunder.

(2) Every application for recognition of a school shall be entertained and considered by the appropriate authority and the decision thereon shall be communicated to the applicant within a period of four months from the date of the receipt of the application and where recognition is not granted, the reasons for not granting such recognition shall also be communicated to the applicant within the said period.

[(3) Where recognition to a school is refused, any person aggrieved by such refusal may, within thirty days from the date of communication to him, of such refusal, appeal against such refusal in the prescribed manner to the Tribunal and the decision of the Tribunal thereon shall be final:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of thirty days, extend, for reasons to be recorded by it in writing, the said period by a further period of sixty days].

(3) [(4)] Where the managing committee of a school obtains recognition by fraud, misrepresentation or suppression of material particulars, or where, after obtaining recognition, the school fails to continue to comply with any of the conditions specified in the proviso to sub-section (1), the authority granting the recognition may, after giving the managing committee of the school a reasonable opportunity of showing cause against the proposed action, withdraw the recognition granted to such school under sub-section (1).

(4) [(5)] The recognition granted under sub-section (1) shall not, by itself, entitle any school to receive aid.

[(6) Every existing school which fulfils the provisions of this Act and the rules made thereunder with regard to the recognition of schools, shall be deemed to have been recognised under this section and every such school be subject to the provision of this Act and the rules made thereunder:]

(5) Every existing school which is receiving aid as on the date of coming into force of this Act shall be deemed to have been recognised under this section and every such school shall be subject to the provisions of this Act and the rules made thereunder:

Provided that where any such school does not satisfy any of the conditions specified in the proviso to sub-section (1), the prescribed authority may, by order, require the school to satisfy such conditions

and such other conditions as may be prescribed within the period specified in the order and if any such condition is not satisfied within the period so specified, recognition may be withdrawn from such school:

Provided further that where any recognised school does not, at the commencement of this Act, satisfy any of the conditions specified in the proviso to sub-section (1), the prescribed authority may, by order, require the school to satisfy, within the period specified therein such conditions and such other prescribed conditions as may be specified in the order and if any such condition is not satisfied within the period so specified recognition may be withdrawn from such school.

[(7) Every school, whose recognition is withdrawn under sub-section (4) or sub-section (6), may appeal within a period of three months from the date of the withdrawal of recognition to the Tribunal which shall dispose of the appeal within six months from the date of presentation of the appeal in such manner as may be prescribed, and if the appeal is not disposed of within the period, the order for the withdrawal of recognition shall, on the expiry of the said period of six months, stand cancelled.

(8) On hearing an appeal preferred under sub-section (3) or sub-section (7), the Tribunal after giving the appellant a reasonable opportunity of being heard, confirm, modify or reverse the order appealed against.]

6. [10] Scheme of Management. — [(1)] Notwithstanding anything contained in any other law for the time being in force or in any instrument having effect by virtue of any such law, the managing committee of every recognised school shall make, in accordance with the rules made under this Act [and with the previous approval of the appropriate authority] a scheme of management for such school:

Provided that in the case of a recognised [private] school which does not receive any aid, the scheme of management shall apply with such variations and modifications as may be prescribed[:].

[Provided further that so much of this sub-section as relates to the previous approval of the appropriate authority, shall not apply to a scheme of management in relation to a minority school.]

[(2) A scheme may be made, in like manner, to add to vary or modify any scheme made under sub-section (1)]

7. [11] Aid to recognised schools. — (1) Any authority specified in clause (c) of section 2 may [distribute], grant out the funds made available to it for the purpose, after due appropriation made by law as aid to recognised [private] schools [not being primary schools recognised by a local authority] such sums of money as it may consider necessary:

Provided that no existing school receiving aid, immediately before the commencement of this Act, shall be eligible for continuance of such aid unless it complies with, within such period as may be specified by the [authority] aforesaid authority, the conditions specified in the proviso to sub-section (1)

of section [9] 5 and the rules made under this Act relating to the grant or continuance of such aid.

(2) The authority competent to grant the aid may stop, reduce, or suspend aid for violation of any of the provisions of this Act or the rules made thereunder:

Provided that no such aid shall be stopped, reduced or suspended unless on a reasonable opportunity of showing cause against such stoppage, reduction or suspension has been given to the management.

(3) The aid may cover such part of the expenditure of the schools as may be prescribed.

(4) No payment, out of the aid given for salary, allowance and provident fund of employees of the school, shall be made for any other purpose.

(5) No unrecognised school shall be eligible to receive any aid or any benefit made available to [private] recognised schools by the authority specified in clause (c) of section 2.

8. [23] Affiliations. — (1) For the purpose of any public examination every recognised higher secondary school shall be affiliated to one or more of the Board or Council conducting such examinations and shall fulfil the conditions specified by the Board or Council in this behalf:

Provided that no Board or Council conducting any public examination shall affiliate any school unless such school has been recognised under this Act and such recognition is in force.

(2) The students of recognised higher secondary schools shall be prepared for, and presented to, the public examinations or such other form of evaluation held or made for the students of such schools.

(3) Save as otherwise provided in sub-section (2), the students of every recognised school shall be —

(a) prepared for, and presented to, such public examination as may be held by the Directorate or any other officer or authority specified by the Administrator, or

(b) subjected to such internal evaluation or assessment as may be prescribed.

CHAPTER [IV] III

School Property

9. [12] School Property. — [(1) The management of every aided school shall furnish to the appropriate authority, initially at the time of grant of aid and thereafter annually, a statement containing a list of school property together with such particulars as may be prescribed]

(1) The Management of every aided school shall maintain in the prescribed form a proper record of its property and such record shall be kept for inspection at the time of regular schools inspection.

(2) No aided school shall transfer any property if, by such transfer, any of the facilities referred to in the proviso to sub-section (1) of section 5 [9] is likely to be prejudicially affected.

(3) Notwithstanding anything contained in any other law for the time being in force, no transfer, mortgage or lease of any movable or immovable property of an aided school, not being the property specified in rules, shall be made except with the previous permission of the appropriate authority:

Provided that where the appropriate authority omits or fails to dispose of the application for such permission within sixty days from the date of receipt of the application in this behalf the permission shall, on the expiry of the said period of sixty days, be deemed to have been granted.

[(4) Any person aggrieved by the grant or refusal of permission under sub-section (3) may prefer, in such form and within such time as may be prescribed, appeal to the Tribunal against such grant or refusal of permission and the decision of the Tribunal thereon shall be final].

(4) [(5)] Any transaction made in contravention of the provisions of sub-section (3), shall be void.

10. [22] School Fund and School Staff Account Fund. — (1) In every aided school, there shall be two Funds to be called, respectively, the "School Fund" and the "School Staff Account Fund".

(2) There shall be credited to the School Fund, —

(a) any aid (other than maintenance grant) granted [by the Administrator;] under section 7;

(b) income other than income from fees accruing to the school;

(c) any other contributions, endowments and the like.

(3) There shall be credited to the School Staff Account Fund, —

(a) the aid granted by the Administrator by way of maintenance grant;

(b) income accruing to the school by way of fees.

[(c) the managing committee's share of expenses referred to in sub-section (2) of section 15]

(4) The School Fund and all other funds, including the Pupils' Fund, established with the approval of the Administrator, shall be accounted for and operated in accordance with the rules made under this Act.

(5) In every recognised unaided school, there shall be a fund, to be called the "Recognised Unaided School Fund", and there shall be credited thereto income accruing to the school, —

(a) by way of fees or other charges,

(b) save as otherwise provided in clause (a), charges and payments which may be realised by the school for other specified purposes, and

(c) any other contributions, endowments, gifts and the like.

(6) (a) income derived by unaided schools by way of fees, or other charges shall be utilised only for such educational purposes as may be prescribed; and

(b) save as otherwise provided in clause (a) charges and payments realised and all other contributions, endowments and gifts received by the school shall be utilised only for the specific purpose for which they were realised or received.

(7) The managing committee of every recognised private school shall file every year with the Director such duly audited financial and/or other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed.

CHAPTER [V] IV

Terms and conditions of service of employees of recognised private schools

11. [13] **Terms and conditions of service of employees of recognised private schools.**— (1) The [Administrator] Government may make rules regulating the recruitment, minimum qualifications for recruitment, and the conditions of service of employees of recognised private schools:

Provided that neither the salary nor the rights in respect of leave of absence, age of retirement and pension of an employee in the employment of an existing school at the commencement of this Act shall be varied to the disadvantage of such employee:

Provided further that every such employee shall be entitled to opt for the terms and conditions of service as [they] were applicable to him immediately before the commencement of this Act.

(2) Subject to any rule that may be made in this behalf, no employee of a recognised private school shall be dismissed, terminated except with the prior approval of the Director.

[(3) Any employee of a recognised private school who is dismissed, removed or reduced in rank may, within three months from the date of communication to him of the order of such dismissal, removal or reduction in rank, appeal against such order to the Tribunal.]

(3) [(4)] Where the managing committee of a recognised private school intends to suspend any of its employees, such intention shall be communicated to the Director and no such suspension shall be made except where a disciplinary proceeding is contemplated or pending, and except with the prior approval of the Director:

Provided that no such suspension shall remain in force for a period [not] exceeding six months, which may, with the prior approval of the Director and for reasons directly attributable to the teacher and recorded in writing, be extended by a further period of three months at a time:

Provided further that the managing committee may suspend an employee with immediate effect and without the prior approval of the Director if it is satisfied that such immediate suspension is necessary by reasons of the gross misconduct, within the meaning of the Code of Conduct prescribed under

section 12 [14] of the employee [:] or where a case against him in respect of any criminal offence involving moral turpitude is under investigation, enquiry or trial:

Provided also that no such immediate suspension shall remain in force for more than a period of fifteen days from the date of suspension unless it has been communicated to the Director and approved by him before the expiry of the said period.

(4) [(5)] Where the intention to suspend, or the immediate suspension of, an employee is communicated to the Director, he may, if he is satisfied that there are adequate and reasonable grounds for such suspension, accord his approval to such suspension.

(5) [(6)] In its application to an aided minority school, —

(a) sub-section (2) shall have effect as if for the words "except with the prior approval of the Director", occurring therein, the words "except after an inquiry in accordance with the procedure specified in the said rule" had been substituted;

(b) sub-section (3) [(4)] shall have effect subject to the modification that the requirement relating to the approval of the Director shall not apply.

(6) [(7)] The provisions of sub-section (1) and the provisions of sub-section (2), as modified by sub-section (5) [(6)] shall apply, and the provisions of sub-section [(3) and (5)] (4) shall not apply to an aided minority school.

12. [14] **Employees to be governed by a Code of Conduct.**— (1) Every employee of a recognised school shall be governed by such Code of Conduct as may be prescribed and on the violation of any provision of such Code of Conduct, the employee shall be liable to such disciplinary action as may be prescribed.

(2) The Code of Conduct shall prescribe, among other things, that no employee shall: —

(a) neglect his duties in teaching or curricular activities;

(b) propagate anti-national, communal, caste or sectarian outlook;

(c) make discrimination among the students;

(d) indulge in malpractices connected with examination;

(e) be irregular in attending the school;

(f) accept any object of remunerative character from any source [or give private tuitions]

(g) prepare or publish any book known as keys or guides;

(h) engage himself as selling agent of any publishing firm;

(i) indulge in political activities within the school premises or incite the students in violent activities;

(j) raise funds without the sanction of the Director;

(k) enter into monetary transactions with the students or parents.

13. [15] **Salaries of employees.** — [(1)] The scales of pay and allowances, pension, gratuity, provident fund and other prescribed benefits of the employees of a recognised private school shall not be less than those of the employees of the corresponding status in schools run by the Government [appropriate authority]:

Provided that where the scales of any pay and allowances, pension, gratuity, provident fund and other prescribed benefits of the employees of any recognised private school are less than those of the employees of the corresponding status in the schools run by the Government [appropriate authority] the Director [appropriate authority] shall direct, in writing, the managing committee of such school to bring the same up to the level of those of the employees of the corresponding status in schools run by the Government [appropriate authority]:

Provided further that the failure to comply with such direction shall be deemed to be non-compliance with the conditions for continuing recognition of an existing school and the provisions of section 5 [9] shall apply accordingly:

Provided also that in each recognised school, which does not receive any aid, there shall be a Fund, to be called "the Employees Retirement Benefit Fund", and there shall be credited to that Fund every contributions made by the school and the employees towards retirement benefits.

[(2)] The managing committee of every aided school shall deposit in each month, not later than the fifth day of that month, its share in the School Staff Account Fund or in such other Fund as the Administrator may specify and the Administrator shall disburse, or cause to be disbursed within the first week of every month, the salaries and allowances to the employees of the aided schools.

(3) Where the managing committee of any aided school omits or fails to deposit its share of the expenses specified in sub-section (2) for a period of three consecutive months, the management of such school shall, on the expiry of the said period, be deemed to have been taken over by the Administrator under section 24, and thereupon, the provisions of section 24 shall apply as if an order had been made thereunder taking over the management of such school:

Provided that the management of the school shall be restored to its managing committee on payment by it, in full, of the arrears of the shares of expenses referred to in sub-section (2)].

14. [16] **Chapter not to apply to unaided minority schools.** — Save as otherwise provided elsewhere in this Chapter, nothing contained in this Chapter shall apply to an unaided minority school.

CHAPTER [V] IV

Provisions applicable to unaided minority schools

15. [17] **Power to prescribe minimum qualifications for recruitment.** — The [Administrator] Government may make rules regulating the minimum qualifications for, and method of recruitment of employees of unaided minority schools:

Provided that no qualification shall be varied to the disadvantage of an existing employees of an unaided minority school.

16. [18] **Power to prescribe Code of Conduct.** — Every employee of an unaided minority school shall be governed by such Code of Conduct as may be prescribed.

17. [19] **Conduct of service.** — (1) The managing committee of every unaided minority school shall enter into a written contract of service with every employee of such school.

Provided that if, at the commencement of this Act, there is no written contract of service in relation to any existing employee of an unaided minority school, the managing committee of such school shall enter into such contract within a period of three months from such commencement.

Provided further that no contract referred to in the foregoing proviso shall vary to the disadvantage of any existing employee the term of any contract subsisting at the commencement of this Act between him and the school.

(2) A copy of every contract of service referred to in sub-section (1) shall be forwarded by the managing committee of the concerned unaided minority school to the [appropriate authority] Director who shall, on receipt of such copy, register it in such manner as may be prescribed.

(3) Every contract of service referred to in sub-section (1) shall provide for the following matters, namely: —

(a) the terms and conditions of service of the employee, including the scale of pay and other allowances to which he shall be entitled;

(b) the leave of absence, age of retirement, pension and gratuity, or contributory provident fund in lieu of pension and gratuity, and other benefits to which the employee shall be entitled;

(c) the penalties which may be imposed on the employee for the violation of any Code of Conduct or the breach of any term of the contract entered into by him;

(d) the manner in which disciplinary proceedings in relation to the employee shall be conducted and the procedure which shall be followed before any employee is dismissed, removed from service or reduced in rank;

(e) settlement of any dispute arising out of any [break] breach of contract between the employee and the managing committee with regard to:

- (i) the scale of pay and other allowances,
- (ii) leave of absence, age of retirement, pension, gratuity, provident fund, and other benefits,
- (iii) any disciplinary action leading to the dismissal or removal from service or reduction in ranks or imposition of any other punishment on [of] the employee;
- (f) any other matter which, in the opinion of the managing committee, ought to be, or may be, specified in such contract.

CHAPTER [VII] VI

Admission to schools and fees

18. [20] Admission to recognised schools. — (1) A child who has not attained the age of five years on or before the 1st day of June of the year in which the admission of such child is sought shall not be admitted to class I, or an equivalent class or any class higher than class I, in a recognised school.

(2) A student seeking admission for the first time in a recognised school in a class higher than class I shall not be admitted to that class if his age reduced by the number of years of normal school study between that class and class I or an equivalent class, falls short of five years.

(3) Admission to a recognised school or to any class thereof shall be regulated by rules made in this behalf.

19. [21] Fees and other charges. — (1) No aided school shall levy any fee or collect any other charge or receive any other payment those specified by the Director.

(2) Every aided school having different rates of fees or other charges or different funds shall obtain prior approval of the prescribed authority before levying such fees or collecting such charges or creating such funds.

(3) The manager of every unaided recognised school shall, before the commencement of each academic session, file with the Director a full statement of the fees and the charges to be levied by such school with the approval of the Director [of Education] during the ensuing academic session, and except with the prior approval of the Director, no such school shall charge during the academic session, any fee in excess of the fee specified by its manager in the said statement.

CHAPTER [VIII] VII

Taking over management of school

20. [24] Taking over management of school. — (1) Whenever the Administrator is satisfied that the managing committee or manager of any recognised school, —

- (i) has contravened any provision of this Act or of any rule or order made thereunder, or

- (ii) has neglected to perform any duty or obligation imposed on it by or under this Act, or

- (iii) has mismanaged the affairs of the school or has misappropriated or has misapplied any money standing to the credit of any Fund of the School, or

- (iv) has managed the affairs of the schools in a manner prejudicial to the public interest, or

- (v) has omitted or neglected to pay its share towards the [pay and allowances], medical facility, pension, gratuity, provident fund, and other prescribed benefits of the employees of the school, in accordance with the provisions of sub-section (2) of section 13 [15] or

- (vi) has closed down the school or any class or section of the school in contravention of the rules made under this Act or any order, direction issued thereunder [without the previous approval of the Administrator] or

- (vii) has made a written representation expressing its inability to run the school,

and that it is expedient in the public interest or in the interests of school education or in order to secure the proper management of the school to take over the management of such school, he may, after giving the managing committee or the manager of such school a reasonable opportunity of showing cause against the proposed action, take over the management of such school for a limited period not exceeding three years:

Provided that where the management of a school has been taken over for a period of three years or less, the Administrator may, if he is of opinion that in order to secure proper management of the school it is expedient that such management should continue to be in force after the expiry of the said limited period, he may, from time to time issue directions for the continuance of such management for such period not exceeding one year at a time as he may think fit, so, however, that the total period for which such management is taken over shall not, in any case, exceed five years.

(2) Whenever the management of any school is taken over under sub-section (1), every person in charge of the management of such school immediately before its management is taken over, shall deliver possession of the school property to secure proper management to the Administrator or any officer authorised by him in this behalf.

(3) After taking over the management of any school under this section, the Administrator may arrange to manage the school through the Director or any other person or body of persons authorised by the Director in this behalf, subject to such terms and conditions and on such remunerations as he may specify (hereinafter referred to as the authorised officer or authorised body, as the case may be).

(4) Where the management of any school has been taken over under sub-section (1), the managing committee or manager of such school, may, within three months from the date of taking over, make a representation to the Administrator, who may,

after considering the said representation made by the managing committee or the manager pass such order, including an order for the restoration of the management or for the reduction of the period during which the management of such school shall remain vested in the Administrator, as he may deem fit.

(5) Where the management of a school has been taken over under this section, the Administrator shall pay or cause to be paid such rent as may be payable for the building of the school to the person entitled to receive it as was being paid by the managing committee or the manager immediately before the management of such school was taken over.

(6) During such period as any school remains under the management of the authorised officer or the authorised body, —

(a) the service conditions, as approved by the Administrator of the employees of the school who were in employment immediately before the date on which the management was taken over shall not be varied to their disadvantage;

(b) all educational facilities which the school had been affording immediately before such management was taken over, shall continue to be afforded;

(c) the School Fund, the School Staff Account Fund and the Pupils' Fund shall be made available to the authorised officer or authorised body, for being spent for the purposes of the school;

(d) no resolution passed at any meeting of the managing committee of such school shall be given effect to unless approved by the Government, and

[(e) the authorised officer or authorised body shall have, and any person in charge of the management of the school at any time before the date on which the management of the school is taken over under sub-section (1) shall not have, the right to open any account in any bank on behalf of the school or operate any account maintained by the school at any bank or to draw money from any Fund referred to in Section 22.]

(e) The authorised officer or the authorised body shall have the right to open any account in any bank or to draw money from any Fund referred to in Section 10. No person in charge of the management of the school at any time before the date on which the management of the school is taken over under sub-section (1) shall have such right.

(7) If at any time [it appears to the Administrator] on the application of the managing committee or manager of the school or otherwise it appears to the Administrator that the purpose for which the management of the school was taken over has been fulfilled or that for any other reason it is not necessary that the school should be continued to be managed by him, he may cancel the order made by him under sub-section (1) and, may restore the management of the school to its managing committee and thereupon the management of the control of the school shall vest in the managing committee.

(8) Whenever the management of any school is taken over by the Administrator under this section, it shall be lawful for him to make such provisions with regard to the scales of pay and other conditions of service, seniority, pension and other retirement benefits of the employees on an equal footing with the employees of similar schools run by the Government.

(9) If, on the expiry of the period specified under sub-section (1) or the extended period specified under the proviso to that sub-section, the managing committee does not take over the management of the school, the Administrator shall, notwithstanding anything contained in sub-section (1), continue to remain in charge of the management of the school, and he shall, by a notice, require the managing committee to take over the management of the school. If the Administrator does not, within one month from the date of issue of the said notice, receive any reply thereto, he shall, within fourteen days after the expiry of the month send to the managing committee of the school, by registered post, another letter, referring to the first letter, and stating that no reply thereto has been received and that if a reply [is not received] to the second letter is not received within one month of the date of issue thereof, a notice shall be published in the Official Gazette declaring the society, trust or other association of individuals owning or managing the school to be defunct:

Provided that, any time within [twenty years] ten years from the date of publication of the notice in the Official Gazette, any rightful owner of the school comes forward to take over the management of the school and its assets, the Administrator shall transfer the school together with its assets and liabilities to such rightful owner and thereupon the school and its assets and liabilities shall cease to remain vested in the Government.

(10) Where the management of an aided school has been taken over by the Administrator, the authority granting such aid shall continue to grant aid to the school [and if the managing committee of the school does not pay its share of the expenses in accordance with the provisions of sub-section (2) of section 15 the grant-in-aid shall be made to the full extent admissible under this Act or the rules made thereunder.]

(11) Where the management of any school had been taken over by the Administrator before the commencement of this Act, and such management was continuing at such commencement, and managing committee of such school has not, after such commencement, taken any steps to take over the management of the school from the Administrator, it shall be lawful for the Administrator to continue to manage such school and to [make] grant [in] aid to the school to the full extent admissible under this Act or the rules made thereunder.

21. [25] Section [24] 20 not to apply to unaided minority schools. — Nothing contained in section [24] 20 shall apply to an unaided minority school.

CHAPTER VIII

Appeals and Offences

22. Appeal.—(1) Subject to the provisions of sub-section (2), an appeal shall lie to the Tribunal from the following orders:

(a) refusing to recognise a school under sub-section (2) of section 5.

(b) withdrawing the recognition of a school under sub-section (3) of section 5.

(c) stopping, reducing or suspending aid under sub-section (2) of section 7;

(d) refusing to grant permission under sub-section (3) of section 9;

(e) dismissing, removing from service any employee or reducing him in rank under sub-section (2) of section 11.

(2) Every such appeal shall be preferred within thirty days from the date of communication of the order:

Provided that the Tribunal may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(3) On receipt of any such appeal, the Tribunal shall, after giving the appellant a reasonable opportunity of being heard and after making such enquiry as it deems proper, pass such orders as it may deem fit, after recording the reasons therefor.

23. Offence and punishment.—(1) If the manager of any recognised private school,—

(a) omits or fails, without any reasonable excuse, to carry out any order made by the Tribunal, or

(b) causes or authorises any student to be presented by the school for any public examination without complying with the provisions of section 8, or

(c) omits or fails to deliver any school property to the Administrator or any officer authorised by him under sub-section (2) of section 20, or

(d) contravenes any provision of the Act or any rule made thereunder, or

(e) omits or fails to furnish any information to any inspecting authority or furnishes any information to that authority which is incorrect or false in material particulars, or

(f) omits or fails to produce any book, register or other document to the inspecting authority, or

(g) prevents any inspecting authority from entering into the premises of the school or from conducting any inspection or inquiry, he shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

Provided that nothing contained in clauses (a) and (c) shall apply to a minority school.

(2) No prosecution shall be instituted under this section except on a complaint made by the Director or any person authorised by him in this behalf.

CHAPTER IX

Miscellaneous

School Education Advisory Board

24. [26] Advisory Board.—(1) There shall be constituted an advisory board to be called the Goa, Daman and Diu School Education Board (hereinafter referred to as the Advisory Board) for the purpose of advising the Government on matters of policy relating to education in the Union territory.

(2) The composition of the Advisory Board shall be as follows, namely:—

(a) the Chairman of the Goa, Daman and Diu Board of Secondary and Higher Secondary Education, ex-officio;

(b) three persons, who are the heads of recognised private schools;

(c) three representatives of organisations of teachers of recognised private schools;

(d) three representatives of the managements of recognised private schools;

(e) the Director, who shall be the Secretary to the Advisory Board;

[(e) two representatives of the University to which the colleges in the Union territory are for the time being affiliated;]

(f) the Principal of one of the colleges in the Union territory;

(g) two members of the Legislative Assembly of the Union territory to be nominated by the Speaker;

(h) two eminent educationists;

(i) two representatives of the parents and guardians of the students of recognised private schools; and

(j) two representatives of the students of recognised private schools.

(3) The Chairman of the Goa, Daman and Diu Board of Secondary and Higher Secondary Education shall be the Chairman of the Advisory Board and the members referred to in clauses (b), (c), (d), [(e)], (f), (h), (i) and (j) of sub-section (2) shall be nominated by the [Administrator.] Government.

(4) The Advisory Board shall regulate its own procedure.

(5) The term of office of every member of the Advisory Board and travelling and other allowances payable to a member of the Advisory Board shall be such as may be prescribed.

25. [27] Delegation of Powers. — (1) The Administrator may delegate all or any of his powers, duties and functions under this Act or under any rules made thereunder to the Director or any other Officer subordinate to him.

(2) Every person to whom any power is delegated under sub-section (1), may exercise that power in the same manner and with the same effect as if such power had been conferred on him directly by this Act and not by way of delegation.

26. [28] Inspection of Schools. — (1) Every recognised school be inspected at least once in each financial year in such manner as may be prescribed.

(2) The Director may also arrange special inspections of any school on such aspects of its working as may, from time to time, be considered necessary by him.

(3) The Director may give directions to the manager requiring the manager to rectify any defect or deficiency found at the time of inspection or otherwise in the working of the school.

(4) If the manager fails to comply with any direction given under sub-section (3), the Director may, after considering the explanation or report, if any, given or made by the manager, take such action as he may think fit, including, —

(a) stoppage of aid,

(b) withdrawal of recognition, or

(c) except in the case of an unaided minority school, taking over of the school under section [24] 20.

27. [29] Jurisdiction of Civil courts barred [banned]. — No Civil Court shall have jurisdiction in respect of any matter in relation to which the Administrator or the Director or any other person authorised by the Administrator or Director or any other officer or authority appointed or specified by or under this Act, is empowered by or under this Act to exercise any power, and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

28. [30] Protection of action taken in good faith. — No suit, prosecution or other legal proceeding shall lie against the Administrator, Director or any other person authorised by the Administrator or Director for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

[31. Liability of manager to punishment. — If the manager of any recognised private school —

(a) omits or fails, without any reasonable excuse to carry out any orders made by the Tribunal, or

(b) causes or authorises any student to be presented by the school for any public examination without complying with the provisions of section 23, or

(c) omits or fails to deliver any school property to the Administrator or any officer authorised by him under sub-section (2) of section 24, or

(d) contravenes any provisions of the Act or any rule made thereunder, or

(e) omits or fails to furnish any information to an inspecting authority or furnishes any information to that authority which is incorrect or false in material particulars, or

(f) omits or fails to produce any book, register or other document to the inspecting authority, or

(g) prevents any inspecting authority from entering into the premises of the school or from conducting any inspection or inquiry

he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees or with both:

Provided that nothing contained in clauses (a) and (c) shall apply to a minority school.]

29. [32] Power to make rules. — (1) The Administrator may, subject to the condition of previous publication, by notification, make rules to carry out the [provisions] purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) the manner in which education may be regulated by the Government in the Union territory;

(b) the conditions which every existing school shall be required to comply;

(c) establishment of a new school or the opening of a higher class or the closing down of an existing class in an existing school;

(d) the form and manner in which an application for recognition of a school shall be made;

(e) the facilities to be provided by a school to obtain recognition;

(f) the manner in which, and the authority to which an appeal against the refusal or withdrawal [or] of recognition shall be made;

(g) the minimum qualifications for, and method of recruitment and the terms and conditions of service of employees;

(h) the authorities to be specified for the purposes of the different provisions of this Act;

(i) the particulars which a scheme of management shall contain, and the manner in which such scheme shall be made;

(j) variations and modifications which may be made in the scheme of management for a recognised school which does not receive any aid;

(k) the conditions under which aid may be granted to recognised schools, and on the violation of which aid may be stopped, reduced or suspended;

(l) the part of the expenditure of a recognised school which is to be covered by aid;

(m) particulars of school property which should be furnished to the appropriate authority;

(n) the form in which, and the time within which, an appeal shall be preferred against an order made in relation to the transfer, mortgage or lien of any school property;

(o) the Code of Conduct for the employees and the disciplinary action to be taken for the violation thereof;

(p) the benefits which should be granted to the employees of recognised private schools;

(q) admission to a recognised school;

(r) fees and other charges which may be collected by an aided school;

(s) the manner of inspection of recognised schools;

(t) the term of office, travelling and other allowances payable to the members of the advisory Board.

(u) financial and other returns to be [filled] filed by the managing committee of recognised private schools, and the authority by which such returns shall be audited;

(v) educational purposes for which the income derived by way of fees by recognised unaided schools shall be spent;

(w) manner of accounting and operation of schools funds and other funds of a recognised private school;

(x) fees, not exceeding one rupee, for preferring any appeal under this Act;

(y) any other matter which is to be, or may be prescribed under this Act.

30. [33] Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Government may by order not inconsistent with the provisions of this Act, remove the difficulty.

Provided that no such order shall be made after the expiry of the period of [five] two years from the commencement of this Act.

Assembly Hall,
Panaji,

18th January, 1984.

M. M. NAIK
Secretary to the Legislative
Assembly of Goa, Daman
and Diu.